

CAI L 58

-67M17

Government
Publications

3 1761 11767017 4



Canada, Women's Bureau

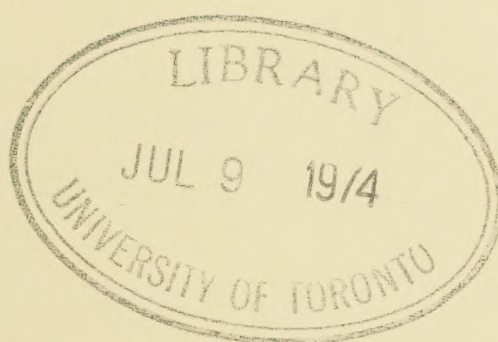
~~Woodsworth, Sheila~~
Maternity protection for
women workers in Canada

[General publications]

[G - 4]

CA 1 L 58
-67M17

MATERNITY PROTECTION FOR WOMEN WORKERS IN CANADA



WOMEN'S BUREAU
CANADA DEPARTMENT OF LABOUR

Rapid growth of the female labour force over the past decade in Canada has brought to the fore the question of maternity protection for women workers. Increasingly it has become a concern of employers, labour unions and governments as well as of women themselves. The existence of relevant policies and programs or the lack of them affects the welfare of the nation.

The Women's Bureau of the Department of Labour, to which has been entrusted responsibility to foster informed opinion regarding the problems of women's work outside the home, gratefully acknowledges the insights that Mrs. Woodsworth has brought to bear upon the subject in this study.

Marion V. Royce,
Director, Women's Bureau,
Canada Department of Labour.

MATERNITY PROTECTION
FOR
WOMEN WORKERS IN CANADA

by
Sheila Woodsworth



Women's Bureau
Canada Department of Labour

© Crown Copyrights reserved

Available by mail from the Queen's Printer, Ottawa,
and at the following Canadian Government bookshops:

HALIFAX
1737 Barrington Street

MONTREAL
Æterna-Vie Building, 1182 St. Catherine St. West

OTTAWA
Daly Building, Corner Mackenzie and Rideau

TORONTO
221 Yonge Street

WINNIPEG
Mall Center Bldg., 499 Portage Avenue

VANCOUVER
657 Granville Street

or through your bookseller

A deposit copy of this publication is also available
for reference in public libraries across Canada

Price 35 cents

Catalogue No. L38-2467

Price subject to change without notice

ROGER DUHAMEL, F.R.S.C.
Queen's Printer and Controller of Stationery
Ottawa, Canada

1967

HD


6099

W66

cop. 4

"The status of women constitutes one of the touchstones of the transition from a traditional to a modern industrial society, a transition which involves a complete transformation both of the mental categories applied to women and of the ethnic criteria by which they are judged".¹

--Dr. Guy Rocher



Digitized by the Internet Archive
in 2023 with funding from
University of Toronto

<https://archive.org/details/31761117670174>

PREFACE

In an attempt to explore some aspects of maternity protection in Canada, this monograph will first indicate the increase of the number of working mothers in the labour force, then consider the Conventions and Recommendations of the I.L.O., which since 1919 have continued to be instrumental in raising standards of maternity protection throughout the world. The relevant provincial labour laws will be reviewed and the influence of the I.L.O. instruments noted. Various provisions for maternity leave that have been made for federal and provincial civil servants will be examined. A survey of maternity leave in business and industry will be described, including details of provisions in both collective agreements and policies resulting from unilateral management decisions.

The problems of both employers and employees in connection with maternity leave will follow. It will be seen that employers reflect society's ambivalence towards working mothers. Many think that mothers should stay home, but on the other hand the same mothers are difficult to replace in their capacity as workers. The employees themselves are sometimes in conflict over their two sets of responsibilities. It will be seen that maternity protection in the form of cash and medical benefits is rare in Canada, whereas a brief study of five other countries will show that it is customary elsewhere. Finally, medical opinion on the health and welfare needs of mother and child round out the study.

Grateful thanks are offered to the many people who by giving their time, sharing their experience or lending their expertise have made it possible to prepare this report. It is hoped that it may throw some light on the present situation in Canada.

Sheila Woodsworth

Ottawa,
November 30, 1966.

CONTENTS

	Page
Chapter	
I The Changing Place of Women in Canada's Labour Force	1
II Requirements of I. L. O. Conventions and Recommendations	5
III Maternity Protection in Provincial Labour Laws and in Federal and Provincial Civil Services	11
IV Maternity Protection in Business and Industry	17
V Maternity Protection in Business and Industry (Continued)	27
VI Problems That Arise in the Job Situation	31
VII Insurance Coverage and Maintenance During Absence from Work	35
VIII Maternity Protection in Five Other Countries	41
IX Medical Opinion Regarding Health and Welfare Needs of Mother and Child.....	47
Summary and Conclusions	51
Appendices	55
References	61

LIST OF TABLES

	Page
1 - Female Participation Rates: 1921-1961	1
2 - Marital Status of Women in the Labour Force, Canada, 1931-1961	2
3 - Some Husband-Wife Families With Wife a Wage-Earner by Age and Earnings of Wife, Showing Family Size, Composition, Average Earnings of Husband and Family, for Canada, 1961	4
4 - Policies of Reporting Units Regarding Maternity Leave	18
5 - Basis of Maternity Leave, With Total Employees, Number and Percentage of Female Employees	18
6 - Extent of Leave Before and After Birth of Child	19
7 - Income from Employer During Maternity Leave	20
8 - Income Received by Employees During Maternity Leave	21
9 - Employers' Participation in Payment of Group Insurance Premiums	21
10 - Method of Payment of Premiums to Employee Benefit Plans	22
11 - Policy re Seniority of Employee During Maternity Leave	23
12 - Arrangements for Welfare of Expectant or Nursing Mothers re Evening and Night Work	23
13 - Arrangements for Welfare of Expectant and Nursing Mothers re Overtime Work	24
14 - Extent of Difficulty Created by Maternity Leave	24

THE CHANGING PLACE OF WOMEN IN CANADA'S LABOUR FORCE

The role of women in our society is changing so rapidly that we are often unaware of the speed of its transformation. To refer again to the opening quotation from Dr. Guy Rocher, the work of women, which in a "traditional" society was confined within the home,¹ is in a "modern industrial" society shifting to outside the home. Women have been going out of the home to work in increasing numbers, and now make up close to one third of the labour force.² About half of these women are married.³

A glance at Table 1 will show the growth of the female participation rate, i.e. the percentage of the female population who are members of the labour force. If one considers the women in the age groups of 20-24 and 25-34, which are the ages when women are most likely to bear children, one sees that the participation rate in the 20-24 age group has risen from 39.9 per cent in 1921 to 53.6 per cent in 1965, an increase of 13.7 per cent. In the 25-34 age group, the participation rate has climbed from 19.5 per cent in 1921 to 32.1 per cent in 1965, an increase of 12.6 per cent.

TABLE 1
FEMALE PARTICIPATION RATES: 1921-1961

Year	Age							14+
	14-19	20-24	25-34	35-44	45-54	56-64	65+	
1921	29.7	39.9	19.5	12.2 ⁽¹⁾	11.0*	9.7*	6.6	19.9
1931	26.5	47.4	24.4	14.3	12.9	11.3	6.3	21.8
1941	26.9	46.9	27.9	18.1	14.5	11.1	5.8	23.0
1951	33.9	49.1	25.5	22.4	21.1	13.5	4.5	24.6
1961	31.6	50.7	29.2	31.2	32.9	23.1	6.2	29.6
June 1965	31.7	53.6	32.1	35.0	36.7	27.8	5.8	32.1

(1) Women 35-49, 1921 Census, Vol. IV, Table XIV.
* Estimated on basis of 1931 pattern.

Source: Ostry, Sylvia - "The Female Worker: Labour Force", Changing Patterns in Women's Employment, Women's Bureau, Canada Department of Labour. 1966.

Table 2 shows the increase in the number of all married women in the labour force, which has risen even more sharply. Before World War II, it was the custom for most women to leave

the labour force at the time of their marriage. Accordingly, in 1931, only 10.0 per cent of the women in the female labour force were married. By 1961 this figure had risen to 49.8 per cent, an increase of almost 40 per cent; footnote 5 of Table 2 explains that married women living with their husbands made up 44.9 per cent of the female labour force.

TABLE 2
MARITAL STATUS OF WOMEN IN THE LABOUR FORCE, CANADA⁴ 1931-1961⁽¹⁾

Marital Status	1931	(10+)	1941 ⁽²⁾	(14+)	1951	(14+)	1961	(15+)
	No.	Per Cent	No.	Per Cent	No.	Per Cent	No.	Per Cent
Single	537,657	80.7	665,623	79.9	723,433	62.1	746,310	42.3
Married ⁽³⁾	66,798	10.0	105,942	12.7	348,961	30.0	877,794	49.8 ⁽⁵⁾
Other	61,335	9.2	61,237	7.4	91,927	7.9	139,758	7.9
Not Stated	69	-	38	-	-	-	-	-
Total ⁽⁴⁾	665,859	99.9	832,840	100.0	1,164,321	100.0	1,763,862	100.0

(1) Statistics from 1931 Census are for age group 10 and over. Statistics from 1931-1951 Census are for age group 14 and over. Statistics from 1961 Census are for age group 15 and over.

(2) Not including persons on active service.

(3) Including permanently separated.

(4) Including Newfoundland (1951 on) but not Yukon and Northwest Territories.

(5) Married women who were living with their husbands and working numbered 791,685 or 44.9 per cent of the female labour force in 1961.

Sources: Occupation and Industry Trends in Canada, 1901-1951, DBS Table 9. DBS, 1961 Census, Advance Report No. AL-1 (Cat. No. 94-500), Table 2. DBS, 1931 Census, Vol. VII, Table 55; Table 26.

It is a matter of some urgency to reflect on what these women do in the event of pregnancy. Do they give up their jobs, as was done in the past, or do they now wish to return to their jobs after a time at home with the baby?

Table 3 shows that in 1961 there were in Canada 658,526 husband-wife families where the wife was a wage earner. Of these families there were 96,045 where the wife was under 25 years of age, and 178,718 where the wife was 25-34 years of age. These two age-groups were selected from among the age-group in the Census of Canada, because they represent the chief childbearing years. The total number of children 15 years of age and under at home in these families was 613,069, with an average of 0.9 children per family. The average family earnings were \$6,054.

The largest number of children 15 years of age and under at home was in the families where the mother earned \$1,000-1,999. In these families, there were 159,083 children 15 years of age and under at home. The average earnings of husbands in these families was \$3,588, and the average total family earnings, \$5,299.

The average earnings of husbands did not rise above \$4,000, except where the wife earned over \$3,000. Since these families have relatively low incomes despite the efforts of the two wage earners, one may conclude that the mothers are working out of necessity. What provisions are made for their protection during

a maternity period? Must they give up their jobs and seek new ones later on? Do they have any help with their medical expenses, and are they compensated for loss of income while they cannot work? Finally, what effect does the mother's employment have on the family?

TABLE 3
SOME HUSBAND-WIFE FAMILIES WITH WIFE A WAGE-EARNER BY AGE AND EARNINGS OF WIFE, SHOWING FAMILY SIZE,
COMPOSITION, AVERAGE EARNINGS OF HUSBAND AND FAMILY, FOR CANADA, 1961

Age and Earnings of Wife	Total Husband-Wife Families	Persons in Husband-Wife Families		Children 15 Years and Under at Home		Families by Number of Children 15 Years and Under at Home			Families With Both Husband-Wife Wage-Earner		
		Total	Average per Family	Total	Average per Family	0	1	2+	Total	Average Earnings of Husband	Average Family Earnings
Wife a Wage-Earner Under 25 years 25-34 years	658,526	2,167,053	3.3	613,069	0.9	338,217	145,505	174,804	553,690	3,891	6,054
	96,045	237,962	2.5	45,161	0.5	63,752	22,425	9,868	88,467	3,375	5,331
	178,718	595,061	3.3	232,004	1.3	66,847	41,114	70,757	159,371	3,908	5,893
Under \$1,000 Under 25 years 25-34 years	172,678	651,940	3.8	236,520	1.4	60,223	42,808	69,647	143,849	3,690	4,382
	22,194	65,926	3.0	21,327	1.0	8,113	8,714	5,367	20,341	2,982	3,407
	47,130	189,423	4.0	93,374	2.0	7,116	10,795	29,219	41,911	3,737	4,181
\$1,000 - \$1,999 Under 25 years 25-34 years	162,994	443,556	3.4	159,083	1.0	78,301	39,371	45,322	137,339	3,588	5,299
	20,984	52,811	2.5	10,632	0.5	13,035	5,816	2,133	19,199	3,043	4,496
	39,197	137,871	3.5	57,834	1.5	11,016	10,378	17,803	35,033	3,554	4,981
\$2,000 - \$2,999 Under 25 years 25-34 years	166,070	501,770	3.0	115,835	0.7	99,708	34,458	31,904	143,262	3,842	6,468
	31,408	71,239	2.3	8,246	0.3	24,954	4,993	1,461	29,228	3,483	5,894
	44,154	133,882	3.0	44,275	1.0	20,302	10,668	13,184	39,829	3,840	6,257
\$3,000 - \$4,999 Under 25 years 25-34 years	129,192	368,813	2.8	76,173	0.6	84,976	23,473	20,743	108,163	4,439	8,132
	19,382	42,285	2.2	3,434	0.2	16,595	2,245	542	17,809	3,984	7,393
	41,207	111,031	2.7	27,912	0.7	25,280	7,969	7,958	36,662	4,410	7,933
\$5,000 and over Under 25 years 25-34 years	13,537	39,641	2.9	7,985	0.6	8,955	2,307	2,275	10,120	5,758	11,923
	403	887	2.2	79	0.2	342	44	17	359	4,696	10,382
	3,246	8,467	2.6	1,931	0.6	2,160	521	565	2,656	5,484	11,263

Source: 1961 Census of Canada, Vol. II, Part 1, Table 93.

II

REQUIREMENTS OF I.L.O. CONVENTIONS AND RECOMMENDATIONS

Since its first session in Washington in 1919, the International Labour Office has been striving to raise standards of working conditions throughout the world. Some regulations for the protection of women workers during the maternity period had been formed before World War I, but the I.L.O. made maternity protection a matter for international concern, and set the standard for legislation in many countries. An early interest in the problems of women workers is shown by the fact that the 1919 session of the International Labour Conference passed the Convention No. 3, on Maternity Protection, and Convention No. 4, on Night Work for Women.

Study of the I.L.O. instruments on Maternity Protection will show that the term implies:

1. Maternity leave.
2. Maternity benefits.
3. Protection of employment (seniority and reinstatement).
4. Facilities for nursing mothers and infants.
5. Protection of the health of women workers during maternity,
 - (a) Protection against undue fatigue.
 - (b) Protection against work incompatible with the physical condition of the worker.
 - (c) Protection against occupational hazards (lifting, pushing, pulling, standing, etc.).
 - (d) Protection against night work.
 - (e) Protection against overtime work.
 - (f) Right to transfer to other work, if medical certificate presented.

The relevant instruments of the I.L.O. are summarized below:

Maternity Protection Convention, 1919 (No. 3)

- covers women employed in industry and commerce;
- provides for twelve weeks' maternity leave, six before and six after confinement, the postnatal leave being compulsory;
- entitles mothers to free medical care, as well as to sufficient benefits for the maintenance of themselves and their children.

These benefits are to be provided either out of public funds or by means of a system of insurance;

- assures the woman of her rightful benefits, even if the doctor or midwife has miscalculated her date of delivery;
- forbids the dismissal of any woman during maternity leave or sickness arising out of her pregnancy or confinement;
- requires mothers to be allowed nursing breaks during working hours;
- includes under the term "woman" any female person, regardless of age or nationality, married or not, and under the term "child" any child, whether born of marriage or not.

This Convention came into force in 1921

Maternity Protection (Agriculture) Recommendation, 1921

- recommends that each member state of the I.L.O. take measures to ensure protection for women employees in agriculture similar to that provided for women employees in industry and commerce by The Maternity Protection Convention 1919 (No. 3). These measures should include absence from work before and after childbirth, and a grant of benefit during the said period, to be provided either out of public funds or by a system of insurance.

Maternity Protection Convention (Revised) 1952 (No. 103)

- reiterates the provisions of the 1919 Convention;
- applies not only to women employed in industry but also to those in non-industrial and agricultural work, domestic service and wage-earning employment at home;
- requires that cash benefits be sufficient to maintain the mother and her child, and stipulates that when they are based on previous earnings, they must be at a rate of not less than two-thirds of the previous earnings thus taken into account;
- establishes that cash and medical benefits are to be a matter of right to all women who comply with the prescribed conditions. Benefits are to be provided either by means of compulsory social insurance or by means of public funds;
- states that in no case shall the employer be individually liable for the benefits due to women employed by him;
- requires longer prenatal or postnatal leave if the mother is unwell;
- includes under the term "woman" any female person, regardless of age, nationality, race or creed, married or not, and under the term "child" any child, born in wedlock or not.

Maternity Protection Recommendation, 1952 (No. 95)
Supplementing 1952 Convention (Revised)

- recommends, whenever necessary for the health of the woman, and whenever possible, a maternity leave of 14 weeks;
- suggests that cash benefits should be more generous than those stipulated by the 1952 Convention; the proportion of a woman's earnings even reaching 100 per cent;
- recommends an even longer extension of prenatal or postnatal leave than is laid down in the 1952 Convention, especially where there is a possibility of abnormal conditions occurring;
- provides that during her legal absence before and after confinement, the seniority rights of the woman should be preserved as well as her right to reinstatement in her former work or in equivalent work paid at the same rate;
- suggests that nursing breaks should total 1½ hours daily;
- specifies that pregnant and nursing mothers should be protected from:
 - night or overtime work,
 - lifting, pushing or pulling of heavy weights,
 - standing a long time,
 - special efforts of balancing,
 - work with vibrating machines;
- suggests that the woman should have the right to transfer to other work without loss of pay if her physician feels that her present work is damaging to her health or that of her child.

The first Convention (No. 3) has been ratified by 24 countries:

Algeria	Hungary
Argentina	Italy
Brazil	Ivory Coast
Bulgaria	Luxembourg
Central African Republic	Mauritania
Chile	Nicaragua
Colombia	Panama
Cuba	Rumania
France	Spain
Gabon	Uruguay
Federal Republic of Germany	Venezuela
Greece	Yugoslavia

It has been declared applicable, with modifications, to 12 territories:

<u>France (Overseas Department)</u>	(Overseas Territories)
Guadaloupe	Coromo Islands
French Guiana	French Somaliland
Martinique	New Caledonia
Réunion	French Polynesia
	St. Pierre-et-Miquelon

<u>United Kingdom</u>
Fiji Islands
Southern Rhodesia (now Rhodesia)
Solomon Islands

Brazil and Uruguay - denounced the first Convention (No. 3) and later ratified the Revised Convention (No. 103).

The Revised Convention (No. 103) has been ratified by 10 states:

Brazil	Spain
Byelorussia	Ukraine
Cuba	Uruguay
Equador	Union of Soviet Socialist Republics
Hungary	Yugoslavia

A ratified Convention is legally binding, and the ratifying country must enact legislation in accordance with its terms. A Recommendation, on the other hand, is a guide for governments wishing to promote a particular standard. It is significant to note that by 1965, 53 states and territories had adopted a 12-week maternity leave period, 22 countries had adopted a 14-week period, and 14 countries had adopted a period varying between 90 days and 22 weeks. In more than 40 countries it is illegal to dismiss a woman worker during the maternity period. In countries where benefits are related to previous earnings, they often exceed the level required by the 1952 Convention, e.g., in 30 countries they vary between 66 per cent and 100 per cent of the basic wage or of the average wage received during the months immediately preceding suspension of employment.⁵

The Conventions and Recommendations regarding maternity protection lay down the right to a cash benefit to compensate for loss of earnings, and a medical benefit including prenatal, confinement and postnatal care.

According to the Convention of 1919 the level of cash benefit must be "sufficient for the full and healthy maintenance" of the mother and child. The exact amount of benefit is to be determined in each country. The Recommendation of 1921 refers to a grant of benefit before and after childbirth. The Convention of

1952, after reiterating the terms of the Convention of 1919, states that national laws and regulations should fix the level of benefit "in accordance with a suitable standard of living". It also states that if, under a system of compulsory social insurance, previous earnings are taken into account, the benefit should be at a rate of not less than two-thirds of previous earnings. The Recommendation of 1952 goes still further and suggests that benefits might be set at a rate of up to 100 per cent of previous earnings.

The Recommendation of 1952, while it suggests the most generous cash benefits of all the four instruments concerning maternity protection, is the only instrument that makes no mention of the financing of benefits. The two Conventions provide for the payment of benefits out of public funds or by means of an insurance system. The Recommendation of 1921 restates the provisions of the Convention of 1919. Compulsory insurance is first mentioned by the Convention of 1952. The payment of benefits is nowhere to be the individual responsibility of the employer.

The 1965 I.L.O. Report on Maternity Protection, covering 135 countries, states that in the majority of cases maternity benefits are paid through a compulsory insurance scheme with only subsidiary contributions from public funds. Medical benefits "are sometimes principally supplied through an assistance scheme or through public dispensaries and hospitals, especially in countries which do not yet possess social security schemes".⁶ The influence of the I.L.O. Conventions and Recommendations can thus be seen to reach far beyond the ratifying countries themselves.

Having laid a solid foundation in maternity protection and influenced legislation and practice throughout the world, the I.L.O. is now giving leadership towards a wider concept of maternity protection. Stress is now laid not simply on the protection of working mothers from exploitation and loss of income because of maternity, but also on helping them to combine their dual responsibilities as family members and as members of the labour force.

In preparation for the 48th Session of the International Labour Conference in 1964, a questionnaire was sent to member states, and replies from 64 states were the basis for the discussions at the session itself. It is significant to note the emphasis placed on the right of every woman to stay home with her children and bring them up herself if that is her wish. Governments were asked whether or not they upheld this right, and if so, whether they thought that the authorities should take action to put this right into effect. They were asked to consider various aspects of the employment of women with family responsibilities, such as: facilities for child care, opportunities for part-time employment, means of helping women to re-enter employment after raising a family, arrangement of working hours to coincide more closely with school hours, measures to lighten household tasks, and public education

to promote general awareness of the problems of women with family responsibilities.

The resulting Recommendation Concerning the Employment of Women with Family Responsibilities of 1965, notes that many of the problems of women workers are problems of all workers, of the family or of society. The Recommendation calls for:

"...broader public understanding of the problems of these workers with a view to developing community policies and a climate of opinion conducive to helping them to meet their family and employment responsibilities."⁷

The Recommendation urges that mothers who are not ready to return to work after their normal maternity leave be allowed:

"a reasonable further period of leave of absence without relinquishing their employment, all rights resulting from their employment being fully safeguarded."⁸

Experts in the field of women's work have long been aware that measures which benefit one set of workers at the expense of another defeat their purpose. They believe that women workers will be helped more by rights secured for all workers than by those set up to protect women workers alone. They nevertheless uphold a mother's right to choose between staying at home with her children, and going back to work. It is understood that if she chooses the former she should be subsidized if necessary; if she chooses the latter, she should be helped by the community in her effort to combine her sets of responsibilities.

Summary

The two Maternity Protection Conventions of 1919 and 1952, and the Recommendation of 1952 have been a guide for legislation in many countries, and have led to improved standards far beyond the limits of the ratifying countries themselves. The I.L.O. has now taken the next step, and in its Recommendation of 1965 has given consideration to the whole area of the employment of women with family responsibilities.

III

MATERNITY PROTECTION IN PROVINCIAL LABOUR LAWS AND IN FEDERAL AND PROVINCIAL CIVIL SERVICES

1. Provisions in Provincial Labour Laws

The labour laws of four provinces of Canada include some provision for regulating maternity leave for women workers. It will be noted that these provisions, though much less comprehensive than the I.L.O. instruments, reflect their influence.

Alberta - "Alberta Labour Act" of 1955⁹ authorizes the Board of Industrial Relations to make regulations prohibiting the employment of a pregnant woman on day shifts for six weeks before and two months after delivery, and on night shifts throughout pregnancy and for two months after delivery. Since no regulations have been issued, however, this provision is inoperative.

British Columbia - In British Columbia, the first "Maternity Protection Act"¹⁰ passed in 1921, grew directly out of the Maternity Protection Convention of the I.L.O. (1919). It prohibited the employment of a women for six weeks following childbirth. It also provided that a woman had the right to leave her work if she produced a medical certificate stating that her confinement would take place within six weeks. Half an hour twice a day was stipulated so that mothers could nurse their babies.

"Maternity Protection Act, 1966"¹¹ passed by the Legislature of British Columbia in March, 1966 is a revision of the former Act. Employers and employees in every industry, business, trade and occupation are included in its scope, except farming and horticultural operations and domestic service in a private residence.

The Act provides for six weeks' leave of absence during pregnancy. Upon receipt of a certificate from a duly qualified medical practitioner stating that a named employee is pregnant and that her confinement will probably occur on or about a specified date, the employer is obliged to grant that employee leave of absence at any time during the six-week period immediately preceding the date specified.

The employment of a woman immediately after childbirth is prohibited. Upon receipt of a medical certificate giving the date of delivery, an employer is forbidden to allow that woman to work for six weeks following that date or during the period recommended in the certificate, whichever is longer. Unlike the former Act, the present Act makes no provision for nursing periods.

New Brunswick - "Minimum Employment Standards Act¹² of New Brunswick (1964)" requires that an employer shall permit a woman who is pregnant to be absent from her work for a period up to six weeks before childbirth, if she has produced a medical certificate showing that delivery will probably take place within that time. The Act also prohibits the employment of a woman during a period of six weeks, following her time of delivery or a longer period on production of a medical certificate. Notice of dismissal for reasons arising from an employee's absence because of pregnancy and childbirth may not be given within a period of sixteen weeks.

Ontario - In Ontario, the "Industrial Safety Act¹³ (1964)" authorizes regulations "respecting the employment of pregnant females in any factory or shop". No regulations concerning pregnant females have been made.

2. Statutory Regulations Covering Civil Servants

i. In the federal civil service

Only since the beginning of World War II has the number of women employed in the Federal Civil Service been large enough to necessitate a policy on maternity leave. After the war, there was a ten-year period when a female employee was required to resign on her marriage; the civil service staff was being reduced, and room had to be made for returning veterans. Since 1955, when married women were accepted on the permanent staff, the number of female employees absent for maternity reasons has grown.

The Civil Service Regulations to the Civil Service Act, (1962)¹⁴ make maternity leave an entitlement for both married and unmarried women. The female employee who becomes pregnant must notify the deputy head of her department that she is pregnant at least three months before her expected confinement. Two months before expected confinement she must be granted leave without pay, which may continue for a maximum period of six months after confinement. The deputy head of her department may allow a female employee who produces the required medical certificate to continue to work as long as her doctor advises, or to stop working before the beginning of the normal two-month period. He also may allow

a female employee to return to work less than two months after the birth of her child, again subject to the approval of her physician.

These regulations, which apply to those parts of the public service governed by the Civil Service Act, have influenced maternity leave policy in other federal government agencies.

ii. In provincial civil services

Manitoba - A regulation made under the "Civil Service Act" (1962)¹⁵ of the Province of Manitoba stipulates that a female employee who leaves the service because of pregnancy, and is re-employed within six months of the time she leaves for that purpose shall be entitled to retain any sick leave, vacation leave and seniority which she accumulated before leaving. Subject to the Civil Service Superannuation Act she is eligible to re-enter the Superannuation Fund if her physician approves her re-employment within six months.

Nova Scotia - Regulations under "Civil Service Act"¹⁶ made in 1963 prohibit the appointment of married women to the Civil Service unless there are too few qualified persons to meet the needs of the Service, or unless it is necessary or in the public interest to employ a married women or to employ a husband and wife together, or if a married woman is able to satisfy the Commission that her husband is not sufficiently providing for her or her dependents. A woman who while single had been appointed to the Civil Service may be dismissed by the Commissioner on the date of her marriage or after her marriage. A woman who has been employed in the Civil Service for two years may be granted special leave of not more than 90 days because of pregnancy.

Ontario - Regulations made under "The Public Service Act",¹⁷ (1961-62) grant one leave of absence without pay and without the accumulation of credits to a female civil servant for the purpose of childbirth. This leave may last for a period of one to six months. After a second or subsequent absence for childbirth, a civil servant who has ceased to be employed may be re-hired in her former position or in a similar one when it becomes vacant. Application to return to the Service must be made within two years of leaving it, and the civil servant who returns in this way is permitted to resume her credits for service at the point where she left them.

Prince Edward Island - Regulations passed under the "Civil Service Act"¹⁸ (1964) provide for leave of absence for a period of 60 days before termination of pregnancy and 60 days after termination of pregnancy. Previously accumulated sick leave or vacation credit is not affected by such leave.

Quebec - A Collective Agreement between the Province of Quebec and its Civil Service, signed March 1966, states that a pregnant employee is entitled to leave without pay on the recommendation of her physician, and that this leave must begin at the seventh month of her pregnancy.¹⁹ She must present a medical certificate both in order to continue working while pregnant and also in order to return to work during the two months after the birth of her child. If at the end of two months her health will not allow her to return to work, she is able to use her sick leave to the limit of her accumulated credits.

An Order in Council adopted September 28, 1966²⁰ added a regulation which extends similar rights of maternity leave to civil servants whose working conditions are not subject to collective bargaining under the terms of the section of the Civil Service Act, which authorizes the signing of a collective agreement with any certified association of employees of the civil service.²¹

Saskatchewan - An Order in Council under "Public Service Act"²² is interpreted as making provision for maternity leave without pay for a period of between three weeks and one year, if satisfactory arrangements can be made for replacement during the woman's absence. There is also provision for an indefinite leave of absence without pay, subject to review at the end of each completed year. Application for extension may be made annually. At the end of the leave, the employee's name is placed on the appropriate re-employment list. She is not eligible for the benefits of public service employment while on leave.

3. Policy in Other Provincial Civil Services

Alberta - Leave of absence without pay is granted to an employee whose department is able to keep her job open for her, but otherwise she must resign. If, however, she is re-employed in her former job within twelve months, her sick leave credits and holiday entitlement are treated as if she had taken leave of absence without pay.

British Columbia - General Provisions in the "Manual of Personnel Administration" of the Civil Service state that decisions on leave of absence without pay due to pregnancy are to be made in the department concerned. Most women resign with the expectation of re-employment if their work record is satisfactory. In exceptional cases application for leave of absence without pay is made to the Civil Service Commission, which considers each case on its merits. Sick leave with pay does not apply where a woman is absent for confinement or for illness resulting from pregnancy, but miscarriage is considered an acute condition or illness.

New Brunswick - It is suggested that female employees may be absent on leave without pay for two months before delivery and two months after delivery. Exact duration of leave is determined by the attending physician.

Summary

While the Statutes of four provinces include provisions for regulating maternity leave, in only two provinces - British Columbia and New Brunswick - is the law operative. Statutory regulations governing civil servants, which provide for a variety of leave periods without cash benefits, exist in six provinces. In three other provinces terms of leave are written into personnel policies. Where seniority is mentioned in the regulations, it does not accumulate during leave, but previously earned seniority is retained by employees who return to work within a stated period.

IV

MATERNITY PROTECTION IN BUSINESS AND INDUSTRY

Public bodies are not alone in attempting to deal with the question of maternity protection. Business and industry also have concerned themselves with the problem and have come to terms with it in various ways. Management has sometimes taken the initiative and has included maternity leave in company policy; labour has sometimes pressed for the inclusion of such provisions in collective agreements.

In an attempt to assess the present situation in this changing aspect of women's work, the Women's Bureau sent a questionnaire²³ to 97 business and industrial establishments. The sample included large and small establishments situated in various parts of Canada, with a fair distribution of those having large and small proportions of female employees. Manufacturing establishments of various types were predominant, but the list drew upon other industries:

Banks,	Public Utilities,
Communications,	Retail Trade,
Insurance Companies,	Service Industries,
Mining,	Transportation.
Municipal Public Service,	

For purposes of tabulation, in order to distinguish between office and non-office employees, for whom conditions are usually different, each of the 97 establishments were considered as two reporting units, making 194 reporting units, with a total of 164,262 employees, of whom 53,169 (32 per cent) were women. There follows an analysis of the replies to the questionnaire.

Question 1. Do you grant maternity leave to female employees?

120 reporting units, employing 40,025 women, made provision for maternity leave. These 40,025 women represented 34 per cent of the total employment in the reporting units granting maternity leave. This proportion corresponds closely with the proportion of women in the total employment of all reporting units in the survey (32 per cent), and with the proportion of women in the Canadian labour force (32.1 per cent). No maternity leave was granted in 41 reporting units, employing

11,342 female employees, making up 45 per cent of the total employment in the units that reported no maternity leave. No reply was received from 33 reporting units, employing 1,802 female employees or 9 per cent of total employment in the units that did not respond.

The 120 reporting units that granted maternity leave with the 40,025 women whom they employed form the basis of all the remaining replies to the questionnaire. All percentages are calculated to the nearest decimal point.

TABLE 4
POLICIES OF REPORTING UNITS REGARDING MATERNITY LEAVE

Reporting Units	Total Employees	Female Employees		Type of Female Employee			
		No.	Per Cent of Total	Non-Office		Office	
				No.	Per Cent of Total	No.	Per Cent of Total
All Reporting Units (194)	164,262	53,169	32	23,379	14	29,790	18
Reporting Units Granting Maternity Leave (120)	118,717	40,025	34	20,556	17.3	19,469	16.3
Reporting Units Granting No Maternity Leave (41)	25,049	11,342	45	1,401	6	9,941	39
Reporting Units Not Responding (33)	20,496	1,802	9	1,422	7	380	2

Question 2. Is this policy written into a collective agreement, or is it the result of a unilateral management decision?

29 reporting units, employing 7,750 women, made provision for maternity leave by collective agreement. These 7,750 women represented 15 per cent of the total employment in the reporting units granting maternity leave under collective agreement.

Roughly four times as many women, 32,275, were employed in the 91 reporting units where maternity leave was granted by the decision of management. These 32,275 women represented 46 per cent of the total employment in the reporting units granting maternity leave by the decision of management.

TABLE 5
BASIS OF MATERNITY LEAVE, WITH TOTAL EMPLOYEES,
NUMBER AND PERCENTAGE OF FEMALE EMPLOYEES

	No. of Reporting Units	Total Employees	Female Employees	
			Number	Per Cent of Total
Granted under collective agreement--				
Non-office	23	41,547	6,185	19
Office	6	7,399	1,565	21
Totals	29	48,946	7,750	15
Granted by management decision--				
Non-office	35	33,572	14,371	43
Office	56	36,199	17,904	49
Totals	91	69,771	32,275	46
Grand Totals	120	118,717	40,025	34

Question 3. For how long before probable date of birth is leave given?

89 reporting units, employing 36,923 (or 92 per cent) of the women covered by maternity leave policies, provided a leave period before childbirth consisting of six weeks or more. A period of up to six weeks applied to 1,857 (or 5 per cent) of those covered by maternity leave policies, while 1,230 (or 3 per cent) of the women had no specified time.

Question 4. For how long after the birth is leave given?

78 reporting units, employing 33,974 (or 85 per cent) of the women covered by maternity leave policies, provided a leave period of six weeks or more after childbirth. There were 4,806 (or 12 per cent) of the women covered who had postnatal leave up to six weeks, and 1,230 women (or 3 per cent) had no specified time.

TABLE 6
EXTENT OF LEAVE BEFORE AND AFTER BIRTH OF CHILD

	No Specified Time		Up to 6 Weeks		6 Weeks or More	
	Reporting Units	Female Employees	Reporting Units	Female Employees	Reporting Units	Female Employees
Before Birth of Child						
NON-OFFICE						
By collective agreement	0	0	3	947	20	5,238
By management decision	3	-	7	683	25	13,688
OFFICE						
By collective agreement	0	0	0	0	6	1,565
By management decision	8	1,230	9	227	38	16,432
TOTALS	11	1,230(3%)	19	1,857(5%)	89	36,923(92%)
After Birth of Child						
NON-OFFICE						
By collective agreement	0	-	5	1,699	18	4,486
By management decision	3	-	12	2,244	20	12,127
OFFICE						
By collective agreement	0	-	0	-	6	1,565
By management decision	8	1,230	13	863	34	15,796
TOTALS	11	1,230(3%)	30(12%)	4,806	78	33,974(85%)

Note: One non-office reporting unit with 15 female employees did not answer this question; units therefore total 119. (-) number not known.

Leave was provided both before and after childbirth for nearly all women covered by maternity leave policies, with a slight tendency for the longer part of the leave to be taken before childbirth. (The maximum periods granted before childbirth varied from six weeks to twenty-six weeks, and the maximum periods granted after childbirth also varied from six weeks to twenty-six weeks, the most common total periods falling in the twelve weeks to six months category.)

Question 5. Does the employee receive any income from employer during absence for maternity?

22 reporting units, employing 3,421 women, or 10 per cent of the women covered by maternity leave policies, provided their female employees with income during absence for maternity. 2,355 of these women were non-office workers for whom maternity leave was provided under a collective agreement.

96 reporting units, employing 36,491 women, or 90 per cent of the women covered by maternity leave policies, did not provide their female employees with income during absence for maternity.

TABLE 7
INCOME FROM EMPLOYER DURING MATERNITY LEAVE

	Income Received			Income Not Received		
	Reporting Units	Female Employees		Reporting Units	Female Employees	
		No.	Per Cent of Total		No.	Per Cent of Total
NON-OFFICE						
By collective agreement	9	2,355	38	14	3,830	62
By management decision	3	373	3	31	13,890	97
OFFICE						
By collective agreement	1	102	6	5	1,463	94
By management decision	9	591	3	46	17,308	97
TOTAL	22	3,421	10	96	36,491	90

Note: One non-office reporting unit with 108 female employees and one office unit with 5 female employees did not answer the question; units therefore total 118.

Question 6. If answer to item 5 is "yes", is the income received by the employee the same as her normal wages or less than her normal wages?

Four reporting units, employing 149 women, or less than 1 per cent of the women covered by maternity leave policies, made provision for their female employees to receive the same income as their normal wages during absence for maternity.

20 reporting units, employing 3,738 women, or 10 per cent of the women covered by maternity leave policies, made provision for their female employees to receive less than their normal income during absence for maternity; 2,814 of these women were non-office workers for whom maternity leave was provided under a collective agreement.

TABLE 8
INCOME RECEIVED BY EMPLOYEES DURING MATERNITY LEAVE

	Same as Normal Wages			Less than Normal Wages		
	Reporting Units	Female Employees		Reporting Units	Female Employees	
		No.	Per Cent of Total		No.	Per Cent of Total
NON-OFFICE						
By collective agreement	0	-	-	10	2,814	45
By management decision	1	4	0	2	369	3
OFFICE						
By collective agreement	1	102	6	0	-	-
By management decision	2	43	-	8	555	3
TOTAL	4	149	-	20	3,738	10

Note: Of the 120 reporting units, 96 units employing a total of 36,138 women did not answer this question; units therefore total 24. (-) number not known.

Question 7. If group insurance provides income during employee's absence on maternity leave, does the company share in the payment of premiums?

37 reporting units, employing 7,195 women, or 18 per cent of the women covered by maternity leave policies, paid 50 per cent or more of insurance premiums; 4,165 of these women were non-office employees for whom maternity leave was provided under a collective agreement.

TABLE 9
EMPLOYERS' PARTICIPATION IN PAYMENT OF GROUP INSURANCE PREMIUMS

	Employer Pays No Share			Employer Pays Less Than 50%			Employer Pays 50% or More		
	Reporting Units	Female Employees		Reporting Units	Female Employees		Reporting Units	Female Employees	
		No.	Per Cent of Total		No.	Per Cent of Total		No.	Per Cent of Total
NON-OFFICE									
By collective agreement	1	162	3	0	-	-	15	4,165	67
By management decision	11	2,995	20	1	4	0	6	1,131	9
OFFICE									
By collective agreement	1	800	51	0	-	-	2	200	13
By management decision	13	3,335	18	1	8	0	14	1,699	10
TOTAL	26	7,292	18	2	12	-	37	7,195	18

Note: Of the 120 reporting units, 55 units with a total of 25,526 female employees did not answer this question; units therefore total 65. (-) number not known.

It is evident that women workers who are granted maternity leave under collective agreement are more likely to receive some income from their employers during leave than those who are granted maternity leave by management decision.

Question 8. Does the employee returning to work after childbirth commence payment of premiums to employee benefit plans as a new employee, or does she have the option of paying the full amount of back premiums, or does the company pay its share of back premiums?

In 52 reporting units, employing 10,653 women, or 27 per cent of the women covered by maternity leave policies, company policy stated that the company would pay its share of back premiums; 61 per cent of the non-office female employees under collective agreement were covered by such a policy.

In 36 reporting units, employing 26,379 women, or 66 per cent of the women covered by maternity leave policies, company policy required female employees to pay the full amount of back premiums.

TABLE 10
METHOD OF PAYMENT OF PREMIUMS TO EMPLOYEE BENEFIT PLANS

	As New Employee			Employee Pays All Back Premiums			Company Pays its Share of Back Premiums		
	Reporting Units	Female Employees		Reporting Units	Female Employees		Reporting Units	Female Employees	
		No.	Per Cent of Total		No.	Per Cent of Total		No.	Per Cent of Total
NON-OFFICE									
By collective agreement	1	162	3	6	1,420	23	14	3,776	61
By management decision	3	114	0	13	11,573	80	13	2,445	17
OFFICE									
By collective agreement	0	-	-	2	463	30	2	200	13
By management decision	6	250	0	15	12,923	72	23	4,232	25
TOTAL	10	526	-	36	26,379	66	52	10,653	27

Note: Of the 120 reporting units, 22 units did not answer this question; units shown in this table therefore total 98. (-) number not known.

Question 9. If you grant maternity leave, does the employee's seniority accumulate ?

In 74 reporting units, employing 14,888 women, or 37 per cent of the women covered by maternity leave policies, seniority accumulated for the full period of maternity leave; 66 per cent of the non-office employees and 59 per cent of the office employees in this group were in units where maternity leave was granted by collective agreement. The corresponding figures for units where the leave was by management decision were 30 and 31.

In 20 reporting units, employing 21,898 women, or 55 per cent of the women covered by maternity leave policies, seniority accumulated for part of the leave period; only 25 per cent of the non-office female employees and 41 per cent of the office female employees covered by maternity leave were in units where leave was granted by collective agreement. The corresponding figures in units where maternity leave was granted by management decision were 60 per cent and 62 per cent. In only an insignificant number of reporting units did seniority not accumulate during the leave.

TABLE 11
POLICY RE SENIORITY OF EMPLOYEE DURING MATERNITY LEAVE

	Seniority Accumulates						Leave Period Not Counted		
	Full Period			Part Period				Female Employees	
	Reporting Units	Female Employees		Reporting Units	Female Employees				
		No.	Per Cent of Total		No.	Per Cent of Total		Reporting Units	No.
NON-OFFICE									
By collective agreement	14	4,087	66	4	1,561	25	5	537	9
By management decision	21	4,398	30	7	8,622	60	3	152	0
OFFICE									
By collective agreement	3	922	59	2	639	41	1	4	0
By management decision	36	5,481	31	7	11,076	62	5	224	0
TOTAL	74	14,888	37	20	21,898	35	14	917	0

Note: Of the 120 reporting units, 4 non-office units employing, 1,199 women and 8 office units employing 1,123 women (a total of 2,322 women), all granting leave by management decision, did not reply. Units in this table, therefore, total 108.

Question 10. If you do not grant maternity leave, do you recognize past seniority if the worker is re-employed?

This question is not applicable to the 120 reporting units that do grant maternity leave. Practice in other reporting units was indeterminable from the replies received.

Question 11. On her return to employment, is the mother given paid time, during the working day, to nurse her baby?

The 120 reporting units that grant maternity leave answered this question either in the negative or not at all.

Question 12. Do you make special arrangements for the welfare of pregnant women or nursing mothers in your employ, so that they are not required to work evenings or nights?

18 reporting units, employing 21,838 women, or 55 per cent of the women covered by maternity leave policies, made special

TABLE 12
ARRANGEMENTS FOR WELFARE OF EXPECTANT OR NURSING MOTHERS
RE EVENING AND NIGHT WORK

	Special Arrangements			No Special Arrangements		
	Reporting Units	Female Employees		Reporting Units	Female Employees	
		No.	Per Cent of Total		No.	Per Cent of Total
NON-OFFICE						
By collective agreement	1	254	4	21	5,657	91
By management decision	7	9,381	64	26	4,555	31
OFFICE						
By collective agreement	0	0	0	6	1,565	100
By management decision	10	12,203	68	40	5,425	30
TOTAL	18	21,838	55	93	17,202	45

Note: Of the 120 reporting units, 9 units employing 985 women did not answer this question. Units shown in this table, therefore, total 111.

arrangements regarding evening or night work for pregnant women or nursing mothers. Most of these special arrangements were made as a result of management decisions rather than by a collective agreement.

Question 13. Do you make special arrangements for the welfare of pregnant women or nursing mothers in your employ, so that they are not required to work overtime?

20 reporting units, employing 21,859 women, or 55 per cent of the women covered by maternity leave policies, made special arrangements regarding overtime work for pregnant women or nursing mothers. All of these special arrangements were made as a result of the decisions of management rather than by collective agreement.

TABLE 13
ARRANGEMENTS FOR WELFARE OF EXPECTANT AND NURSING MOTHERS
RE OVERTIME WORK

	Special Arrangements			No Special Arrangements		
	Reporting Units	Female Employees		Reporting Units	Female Employees	
		No.	Per Cent of Total		No.	Per Cent of Total
NON-OFFICE						
By collective agreement	0	0	0	22	5,911	96
By management decision	8	9,616	67	26	4,628	32
OFFICE						
By collective agreement	0	0	0	6	1,565	100
By management decision	12	12,243	68	39	5,501	31
TOTAL	20	21,859	55	93	17,605	45

Note: Of the 120 reporting units, 7 units employing a total of 561 women did not answer this question. Units shown in this table therefore total 113.

Question 14. How much difficulty would or does maternity leave create for efficient management?

Only 12 reporting units, employing 2,741 women, or 7 per cent of the women covered by maternity leave policies, reported

TABLE 14
EXTENT OF DIFFICULTY CREATED BY MATERNITY LEAVE

	Much Difficulty		Little Difficulty		No Difficulty	
	Number of Units	Number of Female Employees	Number of Units	Number of Female Employees	Number of Units	Number of Female Employees
NON-OFFICE						
By collective agreement	3	1,696	19	3,626	1	863
By management decision	3	-	20	12,088	12	2,283
OFFICE						
By collective agreement	0	0	5	1,545	1	20
By management decision	6	1,045	32	13,915	16	2,922
TOTALS	12	2,741(7%)	76	31,174(78%)	30	6,088(15%)

Note: Of the 120 reporting units, 2 units of non-office employees, granted leave by management decision, did not answer. Units shown in this table therefore total 118. (-) number not known.

much difficulty in the provision of maternity leave. This small number might indicate a trend toward greater acceptance of maternity leave.

Question 15. What problems arise in the job situation from provision of maternity leave?

Although most employers found little difficulty in the provision of maternity leave, many of them described in some detail its negative aspects. See also Chapter VI.

Summary

In general, the women employed in reporting units in which they were entitled to maternity leave under collective agreements had six weeks or more leave before the delivery of the child and six weeks or more after. They did not receive any income from the employer during leave, but some non-office workers did have help from the employer with the payment of insurance premiums. They retained their seniority for the full period of leave. No provision was made for nursing time, and no special arrangements were made for their welfare while pregnant and while nursing. There were indications that in the areas of insurance premiums and seniority, the non-office employees under collective agreement fared better than any other group in the survey. Most employers did not have serious difficulties connected with maternity leave, but they supplied valuable information on the exact nature of the problems which they did encounter.

Reporting units which had a maternity leave clause in collective agreements were in Alberta, Nova Scotia, Ontario, Quebec and Saskatchewan. They were chiefly manufacturing plants.

In general, the women employed in reporting units in which provisions for maternity leave were made by the decisions of management also had six weeks or more before the delivery of the child and six weeks or more after, and did not receive any income from the employer during leave. They did not have help from the employer with the payment of insurance premiums, and their seniority accumulated for only part of the period of leave. No provision was made for nursing time, but in most cases special arrangements were made for the welfare of pregnant women and nursing mothers. Most employers reported little difficulty in the provision of maternity leave, and roughly half described the actual problems.

It could not be established that the size or location of a reporting unit, or the proportion of women among its employees

had any effect on policy concerning maternity leave. On the other hand, there were indications that in the case of establishments within a large company, policy was decided at the head office or by the parent organization.

Provincial legislation was mentioned by two establishments, both of them granting maternity leave by management decision. One establishment in British Columbia, granting leave of 16 weeks before birth and 12 weeks after birth to both non-office and office employees, said that its policy would be revised to coincide with the "Act Respecting the Employment of Women Before and After Childbirth" (Maternity Protection Act, 1966). One establishment in New Brunswick, granting leave of six weeks or more before birth and up to six weeks after birth to both non-office and office employees said:

"The Province of New Brunswick Minimum Employment Standards Act requires leave since 1964. Company policy in effect since 1962."

MATERNITY PROTECTION IN BUSINESS AND INDUSTRY (Continued)

1. Provisions in Collective Agreements

Since women make up 15.4 per cent of union membership in Canada,²⁴ there has been some pressure to include maternity leave clauses in collective agreements. As a result, there are collective agreements that contain excellent provisions. On the other hand, it is not surprising that priority is given at the bargaining table to measures that affect the majority of union members. Consequently, few collective agreements, even those including women within their coverage, contain maternity leave clauses.

Maternity leave clauses regulate leave, seniority and reinstatement, and some also provide for cash and medical benefits. One typical maternity leave clause states that maternity leave will be granted only to employees with seniority of one or more years. Applications for leave, accompanied by a note from the physician, must be submitted at least three months before the expected date of delivery. The employee may work until eight weeks before delivery, and be reinstated, with seniority accumulated up to the time of leaving, within three months of childbirth, if she is physically fit. She must give one month's notice of her desire to return to work and will be placed either in her previous job or in one at an equal rate of pay. If neither is available, she will be placed, subject to seniority and ability, on a job she can do satisfactorily.

One unusual maternity leave clause guarantees leave of six months to a year after one year of service, with six weeks' pay at the employee's prevailing rate. She is free to return to work before the end of six months if she wishes, and may return to the same position at the prevailing wage, or to another one in line with seniority provisions of the agreement.

In an industry employing many women, the union has for ten years administered a plan affording a cash maternity benefit to all women, married or single, who have been members of the union for two years and three months. Workers may be transferred from one shop to another without losing their eligibility, as long as their shop is organized by the same union. Fifty dollars are paid when there is a single birth, and seventy-five dollars when there are twins.

According to the same agreement, pregnant women may go on leave at the end of seven months. They may work longer than seven months if they wish, but they need a doctor's certificate in order to stop work before the end of seven months. They may be absent from work for four months after the birth of the baby, if they wish. No union dues are levied for four months. Seniority is not a consideration, as available work is divided among the workers.

In addition to the provisions appearing in maternity leave clauses, collective agreements usually outline the welfare provisions in the establishment in question, e.g., hospitalization, life insurance, medical-surgical plan and major-medical plan, and sick pay. These provisions, which benefit women workers during the maternity period, include in their scope all workers in the establishment.

2. Provisions Made by Decision of Management

Policies of maternity protection formulated by management are of particular interest because they affect many more women workers than are covered by provisions of collective agreements. There follow some examples of such policies that were provided by employers who replied to the questionnaire.

In one establishment, a Crown Corporation, in which provisions are similar to those laid down for civil servants in the Civil Service of Canada, the pregnant employee must inform her employer that she is pregnant at least three months before the expected date of birth. She must begin her maternity leave at least two months before the expected date of birth. In exceptional cases she may continue to work later, if she produces a medical certificate showing that her doctor approves of a shorter leave period. The employer may at any time require a medical certificate showing that she is well enough to work, or the employer may ask her to begin her leave without pay before the customary date. She must return to work within six months of the date of birth of her child, but if she returns within two months of the date of birth of her child she must present a medical certificate stating that an early return to work is not likely to damage her health. This establishment, employing 42 women, makes special arrangements regarding evening work, night work and overtime work, when these seem necessary to the health of pregnant women and nursing mothers among its employees.

One company with a large number of female employees provides for a leave of absence lasting one year. Usually a female employee begins her leave at the end of the seventh month of pregnancy and remains on leave until the child is at least two months old. If she wishes to remain at work after the end of the seventh

month or to return within two months after delivery she must produce a doctor's certificate. While on leave of absence, she may maintain payments into the payroll deduction plan by submitting post-dated cheques before going on leave. Previous seniority is restored to female employees who return to the company after raising a family and remain in its employ for at least a further five-year period. This company, employing 8,606 non-office women workers and 10,980 office women workers, also makes special arrangements regarding evening work, night work and overtime work, when these seem necessary to the health of pregnant women and nursing mothers in its employ. It also provides excellent fringe benefits in the form of health services, health insurance and a pension plan.

Companies in which personnel policies are decided unilaterally by management do not always guarantee women reinstatement in employment. One reporting unit, employing eight non-office women workers and thirteen office women workers, stated its policy in the following way:

"There is no guarantee given to an employee that we will have a job for her when the maternity leave has expired. She will return to work only if there is a suitable opening. Otherwise she is separated from the company."

Policy in four reporting units, with a total of 509 non-office women workers and 470 office women workers was reported in a similar way:

"Leave of absence does not guarantee employment on return. It simply protects service and seniority."

In some companies which provide maternity leave by the decision of management, as in those which provide maternity leave by collective agreement, employees on maternity leave receive cash benefits for six weeks, and pay no premiums to insurance plans during leave. One company makes a gift of one week's pay to employees on maternity leave.

Summary

A small number of women are affected by maternity leave policies contained in collective agreements, while a large number of women are affected by those formulated by unilateral decisions of management. There is a great variety among provisions, not only in length and distribution of the period of leave but also in

respect to seniority and fringe benefits. On the whole, policies resulting from management decision do not differ greatly from those written into collective agreements.

VI

PROBLEMS THAT ARISE IN THE JOB SITUATION

1. From the Point of View of the Employer

In the Women's Bureau's questionnaire, employers were asked to describe briefly the problems which arise in the job situation from the provision of maternity leave. Although the majority reported little or no difficulty, many employers were helpful in describing exactly what they had found to be the areas of difficulty.

Replacement is the employer's central problem in granting maternity leave. Since, from the employer's point of view, maternity leave is a means of keeping open a position for an employee whose services he values, he must make temporary arrangements. Replacement usually means spending time and money on the training of a new employee, who seldom becomes fully competent in a short time. Work in general is slowed down during this training period, and overall efficiency is affected. One employer found it necessary to carry 10 per cent extra female staff in order to provide for maternity leave and absenteeism. Another reported a system of rotation among personnel, which simplified the problem of replacement.

The following are examples of problem situations described by employers:

"All vacant positions must be advertised in plant for bidding upon by other plant employees who are qualified. However upon return of the new mother she takes up her former job and the temporary incumbent is 'bumped' to another. Therefore there is a constant possibility of 'bumping' throughout."

"Employee's job is held for four months. Employee promoted to fill vacancy is temporary, fitting the job only until regular employee returns. Some do not want this promotion for four months only, because they might miss a chance for permanent promotion while relieving for an employee who has permanent status ..."

One employer spoke for many when he listed five difficulties:

"Finding a suitable replacement is in itself difficult;

"The realignment of personnel to replace the absent person may require training on several jobs;

"Even if training is not required, a number of employees may have to adapt to new routines, resulting in a certain amount of inefficiency;

"The same dislocation may take place in reverse when the absent employee returns.

"The additional family responsibilities seriously affect the productivity of the new mother in some cases."

If an employer carries extra staff to allow for maternity leave, sick leave or leave of absence, there is always danger of overstaffing, whereas without extra staff there is danger of overwork for those on the job. One employer deplored the clerical work involved in the recording of seniority and benefits for women taking leave. Another found it difficult when women work late in their pregnancy, particularly when they were required to deal directly with the public. Finally, women do not always return to the job after their leave. One employer reported that they use maternity leave in order to protect their seniority rights and benefits, but sometimes do not return to claim the job that has been held for them. "Seniority rights are important", he continued, "as any job grade above an entrance job is subject to posting, and seniority, merit and ability are applied in the selection of the applicant."

Employers who were interviewed, like those who replied to the questionnaire, mentioned replacement as their chief problem. A clerical worker can often be replaced from a central pool, but a highly trained employee who is carrying heavy responsibilities leaves a gap which cannot always be filled. If her work is of central importance in an office, it is sometimes carried by the rest of the staff during her absence, rather than by an untrained substitute. Unless there is provision for an extra staff member to take up the slack at such times, this may result in overwork for the woman's fellow-workers. Some women exploit the difficulties of pregnancy in order to gain the sympathy and concern of the employer, causing irritation among other employees. Absenteeism, although not a major problem, may occur in the early months of pregnancy and while the baby is small. It is during the latter period that women are subject to fatigue which tends to lower their morale, especially if they attempt evening or night work after a full day at home.

Special arrangements are often made in the case of unmarried mothers, who prefer to have their employer give them a new job among new people, but in the same company, rather than to

return to their former job. The period of maternity is a particularly difficult time for them, and they are sometimes slow to settle down after it.

One employer felt that resignations and other kinds of leave create as much difficulty for management as maternity leave. One felt that a longer period of maternity leave would give more time for proper training of replacements, while another saw it as a possible cause of dissatisfaction among the office staff.

Employers' attitudes reflect our society's ambivalence towards working mothers. A man who as a citizen and as a father may believe firmly that mothers should not work, may find himself unable as an employer to run his establishment without them. His dilemma is most apparent when a key member of his staff is on maternity leave, and the even flow of work is interrupted. There is a real need for more awareness of this whole aspect of women's work and more research into attitudes towards working mothers. Are we on the one hand depending on them to keep our offices and stores and hospitals in operation but on the other hand giving them too little help with their double responsibilities?

2. From the Point of View of the Employee

Because her income is necessary to her family, the woman taking maternity leave must make family responsibilities fit in with the demands of the job. With good general health and good prenatal care it is usually possible today for a woman to work during a first pregnancy until maternity leave begins, but, if it is not possible for her to do so, she is in danger of being severed from the company. During a second pregnancy or succeeding pregnancies, and with heavier home responsibilities, it is more difficult to go on working during the prenatal period.

Many women are fortunate enough to make arrangements with a grandmother or close relative who has a real attachment to the baby and will tend it with devotion. These are the mothers who can return to the job with a clear mind, ready to concentrate on their work. A mother who can afford a full-time housekeeper is also fortunate. Difficulties arise, however, when the baby must be taken out of its home for care, perhaps to a succession of women with children of their own. If the child is ill, the working mother stays home, knowing that she is letting her employer down, but knowing also that a good mother puts her baby first. Too much worry about the baby, too much housework and too little sleep make heavy demands on the mother at this time. Giving up her job, on the other hand, means possibly giving up not only her income, but also the seniority and benefits which are rightly hers. A longer leave, which would in some ways help both mother and child, might

at the same time do great harm by preventing the mother from earning the money she must have for her family. Even a period of six weeks after delivery is too long for some women, if it is a period entirely without income.

Summary

The majority of employers who replied to the questionnaire said that they found little or no difficulty in granting maternity leave. The chief problems appear to be the replacement of the absent worker and the relocation of her substitute. Some ambivalence towards working mothers was shown, and some concern lest motherhood should reduce the efficiency of female workers.

Some female workers make good arrangements for the baby while others are distressed because the need for money drives them back to work when they would rather be at home.

VII

INSURANCE COVERAGE AND MAINTENANCE DURING ABSENCE FROM WORK

Any report on maternity protection must discuss medical and financial benefits as well as leave and seniority. As stated earlier, the I. L. O. Maternity Protection Convention of 1919 entitles mothers to free medical care, as well as to financial benefits for the maintenance of themselves and their children. Such benefits may be provided either out of public funds or by means of a system of insurance. How is the Canadian mother who is absent from work because of maternity protected from loss of income?

It has already been shown that most of the women in the survey who were granted maternity leave were given six weeks or more before the baby's birth and six weeks or more afterwards, with accumulation of seniority during the whole of the leave period. On the whole, however, they had no further maternity protection.

All provinces in Canada have insurance plans that provide for hospitalization. In addition, some women enjoy excellent medical coverage which is provided by group employee plans. For example, one such plan provides for the payment of \$45 per week during six weeks of the leave period; medical benefits are provided as well as hospital coverage in a semi-private room; in addition, the Blue Cross Prescription Drug Plan benefits, with a deductible of \$30 for married persons, are provided for all employees and their families.

The 1962 Survey of Working Conditions in Canadian Industry²⁵ conducted by the Economics and Research Branch of the Department of Labour, which gives the most recent comprehensive data regarding health benefit plans, showed that 90 per cent of plant employees and 95 per cent of office employees in manufacturing in Canada had health benefit plans. Of these, the large majority of plans in both categories - non-office and office - included surgical-obstetrical benefits. From this same survey, it appeared that most of the health benefit plans were jointly financed by the employer and the employees. For about one-fifth of the employees covered by these health benefit plans the employers paid all costs. Thinking of the total female labour force, it should be noted, however, that only a minority of women workers enjoy such benefits.

Women employed in the Civil Service of Canada have immediate maternity coverage if they have joined the Government-

sponsored Group Surgical-Medical Insurance Plan for civil servants when first eligible. Women who did not join when first eligible must submit a statement of health with their application card, but benefits in connection with pregnancy or maternity are paid only if the application and the statement of health have been submitted more than nine months before date of delivery or expected date of delivery.

Benefits in connection with pregnancy are payable under the Surgical and Major Medical Expense Benefits and, where applicable, under the Optional Hospital Expense Benefit. While an employee is earning, the Government pays one half of the total monthly premium for the basic plan of Surgical and Major Medical Expense Benefits, but, while an employee is on maternity leave, she is responsible for paying the total monthly premium in order to continue coverage. This is in line with policies in business and industry (see Chapter IV), where in only 39 per cent of reporting units did the company pay its share of back premiums for female employees returning from maternity leave.

As for financial benefits, replies to the questionnaire showed that women employees in four reporting units received their normal income while on leave. These units accounted, however, for only 149 women, less than one per cent of the total number of female employees in the survey. The reporting units concerned were:

- . A small retail store without a collective agreement - The 12 employees are eligible to receive their normal wages, "part from group policy, part made up by firm. The percentage varies according to salary".
- . A textile factory with a collective agreement - The non-office employees and the office employees both receive income during maternity leave but only the office employees (102) receive their normal wages. The company pays 100 per cent of premiums.
- . A chocolate factory - Thirty-five female office employees, who are not under collective agreement receive their normal wages, but non-office employees in the same plant who are under collective agreement receive no income from the employer during maternity leave.

In cases where group insurance provided income during the employee's absence on maternity leave, the survey showed that some employers paid 100 per cent of premiums, some paid 50 per cent or more and some required female employees to pay all premiums during the leave period.

Lacking other sources of income, considerable numbers of Canadian workingwomen who are not covered by group insurance, or indeed by any maternity leave policy, regard Unemployment Insurance as a source of funds during absence from work. Since Unemployment Insurance is a system of insurance, however, and not an instrument of social assistance, claimants have the burden of proving that they have recently been employed and that they are "willing, able and ready to accept immediately any offer of suitable employment..."²⁶ Eligibility for benefits depends on whether one has convinced the authorities that one is available for employment. In the words of the Unemployment Insurance Commission:

"Pregnant women have difficulty in obtaining work. When they have the opportunity of remaining in employment they should do so for as long as possible. A woman who, for personal reasons, left her employment some months before the expected date of her confinement, was disqualified for having left voluntarily without just cause, as she had not shown that there were compelling circumstances which forced her to quit.... Generally speaking, where a woman has left her employment voluntarily because of pregnancy there is serious doubt regarding her availability for employment. She may succeed in proving that she is available in some cases...."²⁷

Availability was proven in the following case:

"A fitter who left her employment on her doctor's advice when three months pregnant; who filed a claim three weeks later, stating she would accept less strenuous work and submitted supporting medical evidence; who sought employment and subsequently found part-time work as a chamber maid...."²⁸

Usually, however, a woman who leaves her job on discovering that she is pregnant is in a difficult position when she applies for Unemployment Insurance.

At present, women are considered unavailable for work, and therefore ineligible for Unemployment Insurance for six weeks before the birth of a child and six weeks after the birth of a child. Administrators of the plan have the thankless task of denying benefits to women at the time when their need is greatest. In certain circumstances, however, this practice is waived:

"In distressed circumstances, such as where a stenographer was the breadwinner of the family, her willingness to work at such a time was apparent from her employment

record, she was capable of carrying out the duties of her normal occupation without due embarrassment to an employer, the claimant was held as not capable of and available for work prior to her confinement for a period shorter than the usual six weeks..."²⁹

Women who have contributed to the plan feel that they should draw from it when in need, and may use subterfuge. Here is an example of a woman who was declared ineligible for benefits for this reason:

"A presser in dry cleaning who was laid off due to a shortage of work when $5\frac{1}{2}$ months pregnant; who filed a claim two weeks later and remained on claim until four months later when she was admitted to hospital; whose pregnancy and confinement were disclosed only when the hospital reported that a full term baby was born the next day after her admission; although she alleged other illnesses and a premature birth..."³⁰

A woman who fails to give her proper address, who fails to reveal the fact that she is pregnant or that she had had a baby may be asked to return the money she has received and even be taken to Criminal Court. Furthermore, a woman who demands too high a rate of pay after a long period without employment can limit her availability for work, and thus make herself ineligible for Unemployment Insurance. One such case was recently appealed, but the appeal was turned down.³¹

The difficulties of administering such an intricate plan are obvious, and it appears that they will continue as long as an insurance plan, which does not insure against illness and maternity, is made to serve as an assistance plan. George Hougham, then Director of Research, Canadian Welfare Council, pointed this out in his brief prepared for the Federal Committee of Enquiry into the Unemployment Insurance Act (1962):

"Workmen's compensation provides wage-related cash benefits and required medical and related services in case of work-caused injury or illness. And unemployment insurance provides wage-related cash benefits in the event of involuntary unemployment. There is no similar recognition of any need for a specific program of wage-related benefits in the event of either illness or maternity. In case of financial need, the only recourse of the person whose income is interrupted by illness or maternity is to public assistance."³²

We need to give thought to the plight of women whose income is interrupted by maternity. Do we mistakenly assume that all women are supported by their husbands during the maternity period? What protection are we giving to mothers who are widows, divorced, deserted or single, or whose husband's income is already too small to support a family?

"Today there are very few countries indeed", says an I.L.O. Report,³³ "which lack this basic form of protection for women workers." Where does Canada stand?

Summary

The Maternity Protection Convention of 1919 established the right of mothers to cash and medical benefits, to be provided out of public funds or by means of a system of insurance.

Little evidence was found that Canadian women are protected in this way. In the absence of a system of social insurance, Canadian women in the labour force who are not members of a group insurance plan through their place of employment must have recourse to Unemployment Insurance, or failing that, to Social Assistance.

VIII

MATERNITY PROTECTION IN FIVE OTHER COUNTRIES

Some form of maternity protection exists in almost every country in the world, the provisions differing from one country to another. Five countries have been chosen for consideration: Australia, France, New Zealand, Sweden and the United Kingdom. Material on each country was obtained from its Embassy or High Commissioner's Office in Ottawa and has been supplemented by information from a world survey of national law and protection with respect to maternity protection published by the International Labour Organization in 1965.⁵ It should be noted that in addition to the provisions for maternity protection outlined below, all of the five countries provide a benefit similar to Canada's family allowance.

Australia

In Western Australia, the Factories and Shops Act, 1920-59 makes provision for a 12-week maternity leave period. In New South Wales, the Factory, Shops and Industry Act, 1962, provides for a 10-week maternity leave period. In Victoria the regulations to the Public Services Act lay down a period of 12 to 18 months for women teachers, while in New South Wales leave is fixed at 12 weeks by regulation under the Public Services Act. In New South Wales, the Factories, Shops and Industry Act, 1962 makes binding the prohibition against the employment of women until after the termination of the postnatal period of six weeks.

A Maternity Allowance is paid to all resident mothers who claim it, irrespective of whether they are in the labour force. The amount of the Allowance varies from \$30 to \$34 (Australian) according to the number of children in a family, and there is an extra payment for each additional child in the case of multiple births. If necessary, part of the Allowance may be claimed during the month before childbirth. Also, the Commonwealth Government reimburses a proportion of individuals' hospital and medical expenses. In general these reimbursements are made through one of the approved medical insurance groups to which 75 per cent of the Australian population belong. Women who have contributed for ten months to one of these organizations receive a refund of up to

90 per cent of the hospital and medical expenses incurred during the maternity period.

In October, 1966, when for the first time the Commonwealth Parliament adopted legislation enabling permanent employment status for married women in its Public Service, provision was included for a 12-week period of maternity leave, with further allowance for absence up to six months at the option of the employee. At her own discretion, the woman may use any accumulated sick leave, recreation leave or furlough entitlement to cover her absence or some part of it.

France

Of the five countries under consideration, France is the only one which has ratified an I.L.O. instrument concerning maternity protection. The Maternity Protection Convention, 1919 (No. 3) has legal force in France.

A 14-week maternity leave period is established by law, the postnatal part of the leave being compulsory. This rule is equally binding on employer and employee. Employment is prohibited during only two weeks of the prenatal period. Provision is made for additional leave if it is required, but benefits may not be paid for longer than fourteen weeks. The extension relates to postnatal leave only.

Every pregnant woman in France is entitled to a prenatal allowance provided that she declares her pregnancy within the first three months and undergoes the prescribed medical examinations. The allowance is usually equal to nine times the monthly family allowance payable in respect of each dependent child and is paid in three equal instalments. An allowance is also granted for the birth in France of any child of French nationality under the following conditions:

- . for the first child if the mother is under 25, or if the birth takes place within two years of the marriage;
- . for subsequent children, provided that they are born within three years of the preceding child.

Since 1946 France has had a system of compulsory insurance for employed persons to which both employers and employees contribute. To draw maternity benefits, a woman must have been enrolled in the insurance plan for ten months before the date of delivery, and have worked for pay at least 60 hours during the three months preceding the beginning of pregnancy. The cash benefit from this system is a daily allowance paid during the six weeks before delivery and the eight weeks after delivery. Those eligible for benefits are the insured working mother herself, the wife of an insured man and the dependent daughters of an insured person.

The compulsory insurance scheme also covers the medical

expenses of pregnancy, delivery and postnatal care, provided that the insured woman undergoes the required medical examinations. Free pharmaceutical and other relevant supplies are issued. The women concerned are free to choose their doctor and to choose between a public and a private hospital.

France makes provision for additional payments beyond those already mentioned. If a child is breast fed, its mother receives a bonus; if it is fed artificially its mother receives milk coupons. A special allowance is paid to households with only one breadwinner. The amount is based on a percentage of the average wage paid in the region and varies with the number of dependent children. An allowance is paid to heads of families in certain categories where the wife is devoting herself to home and children. Finally, pregnant women, married or unmarried, may take advantage of the services provided for the needy.

There is a compulsory provision against dismissal during a 14-week maternity leave period, and failure to observe the provision can result in penal sanctions. In the event of a breach of contract women are entitled to damages. As an additional measure of protection, women have the right to terminate their contract of employment during maternity and absence on maternity leave without notice and without having to pay for breach of contract.

The I. L. O. Convention of 1919 stipulates that two half-hour periods be provided during the working day in which a mother may nurse her baby. Accordingly, the Labour Code of France makes provision for two such nursing periods, which must be continued daily until the child is one year old. Employers are required to provide nursing premises or nurseries inside or near their establishments.

New Zealand

A postnatal leave period of six weeks is required by law, and female workers are prohibited from resuming their employment until after the end of this period. Under the Teachers' Leave of Absence Regulations, the period of maternity leave for teachers may be extended to twelve weeks.

Since 1939 New Zealand has been providing medical benefits for maternity. These benefits, available to all resident women, include prenatal and postnatal care by medical practitioners, and the care of doctors and nurses at confinements in maternity hospitals and elsewhere. Hospitalization for fourteen days after the birth, and one postnatal consultation are provided. Patients who consult obstetrical specialists or who are confined in private maternity hospitals must pay the additional cost themselves. New Zealand conforms to the I. L. O. Convention of 1952 in allowing free choice of medical practitioner and the freedom to choose between a public and a private hospital.

The national health system of New Zealand covers the entire population, the costs being shared among insured persons, employers and government. A married woman whose husband cannot support her is eligible for a sickness benefit of up to £ 4 16s. a week, payable during maternity leave.

Sweden

The Workers' Protection Act, 1949 provides for a 12-week maternity leave period. A formal clause in the legislation, binding on employer and employee alike, makes the postnatal part of the leave compulsory, unless the mother presents a medical certificate stating that she may return to work without harm to herself or her child. In cases of sickness resulting from pregnancy or confinement, extension of leave is provided through the sickness insurance scheme.

Sweden has a compulsory social insurance system which has been in effect since 1963, and as a result nearly all Swedish citizens and resident aliens are covered by health and maternity insurance. A lump sum payment of 900 kronor (about \$180.00) is made to all insured mothers, plus 450 kronor for each additional child born at the same time. In addition to this payment, the employed or self-employed woman is given a supplemental daily allowance for 180 days, provided that she does not earn money during this time, and provided also that she has been insured and earning a specified rate of pay for nine months before confinement. The lump sum payment and the supplemental daily allowance together compensate the woman worker for two-thirds of her normal wages. A maternity benefit based on a means test, formerly used to supplement benefits paid under the insurance scheme, was abolished in 1963 because of an increase in the lump sum payment and the partial coverage of dental care.

The medical benefit consists of free hospitalization or coverage for costs of home confinement, partial costs of medical care and three-fourths of costs for dental care. No qualifying period is required. It is the practice for a woman to choose her own doctor and to choose between a public and a private hospital. Public maternity clinics offer free prenatal and postnatal care.

The cost of the comprehensive insurance system are shared among the insured persons (50 per cent), government (25 per cent) and employers (25 per cent).

If a woman has been in the service of one employer for at least a year, she is protected against dismissal throughout pregnancy and for six months after confinement. This prohibition, however, is not absolute. A woman may not be dismissed because she is pregnant or nursing her child, but she may be dismissed for other causes. The burden of proof rests with the employer.

The Workers' Protection Act, 1949, states that employers may not refuse to allow a mother time to nurse her child. Nurseries and child care facilities are operated on a co-operative basis.

United Kingdom

In certain non-metropolitan areas of the United Kingdom, maternity leave is granted under collective agreements. Some agreements stipulate that, in order to be eligible for maternity leave, a woman must have worked for the same employer for a certain minimum period. Collective agreements governing employees of local authorities and employees of the electricity supply industry provide for a leave period of eighteen weeks.

Since 1946 the United Kingdom has had a dual social insurance and national health service system. Any married woman may claim the Maternity Grant of £22, either on her own insurance or on her husband's insurance. If more than one child is born, a further grant may be claimed. In addition, women who have paid or had credited to them 50 full-rate employed or self-employed contributions in the prenatal period receive an allowance of £4 a week for eleven weeks before confinement and seven weeks after confinement. They must not do any paid work during this period. The allowance may be increased because of a dependent adult or dependent children, but not if the claimant's husband is living with her and is capable of self-support.

The National Health Service provides for all resident women, maternity care, including the services of doctors, care in public hospitals and free dental care for expectant and new mothers. If confinement is in the home or at the patient's own expense, an additional £6 is paid.

The dual social insurance and national health service system is financed by flat contributions of employers, employees and government. The government pays about 80 per cent of the costs of the national health service.

In general, British women remain at home after maternity leave, but the woman who wishes to return to work is customarily reinstated.

Summary

The governments of the five countries under review have given serious consideration to the question of maternity protection. The influence of the Conventions and Recommendations of the I.L.O. may be traced most readily in France, which has ratified the Convention of 1919, but it has made an impact, also, in each of the other countries.

IX

MEDICAL OPINION REGARDING HEALTH AND WELFARE NEEDS OF MOTHER AND CHILD

Ideas about working mothers are changing; the thinking of the employers consulted in this survey bore out this change in attitude. What do doctors say about the needs of the mother and child? Are these needs being forgotten as more and more married women seek employment?

Prominent doctors in the fields of industrial medicine, obstetrics and public health gave generously of their time so that an interviewer could hear more than one medical opinion. All were agreed that the welfare of mother and child is central and described different ways in which this welfare is to be fostered. One doctor would like to see mothers leave the labour force when the first child is born, devote herself entirely to her family during the growing years, then return to the labour force when her family needs her presence less. Another doctor agrees that a young baby needs its mother's personal care but realizes on the other hand that many Canadian women must work during most of their adult lives, simply to make ends meet. A third doctor stresses consistency of care. If a mother must return to work, a warm, devoted grandmother or aunt may make a good substitute. Day-care in a family selected and supervised by a competent social work agency also may provide the affectionate individual attention that a child needs.

Physical damage to the mother who works during pregnancy is considered less of a threat than formerly, perhaps because many women do clerical rather than factory work. Nowadays, with a normal mother in good health, the emphasis is on a long postnatal leave rather than a long prenatal leave. Pregnancy and delivery are normal occurrences for 85 to 90 per cent of women, and it is considered permissible to work till the end of the sixth or seventh month of pregnancy.

It is the other 10 or 15 per cent of women who may need to stop work early in pregnancy. For them, pregnancy and childbirth are medical problems, and if there is trouble two lives

instead of one may be at stake. These are the "poor maternity risk" mothers, who may have had miscarriages, or borne many children, or simply be older than the average obstetrical patient. Through regular examinations in the doctor's office or prenatal clinic, any complications which arise can be detected and treated. It was pointed out that where free clinics and free hospitalization exist such services are invaluable in the treatment of toxæmia, which require early diagnosis and a period of rest in bed.

In order to estimate the date of birth, most doctors calculate from the last menstrual period. A doctor who knows the patient can note on the report the fact that the patient is habitually premature or overtime, or perhaps has given the wrong date for the last menstrual period. A doctor who does not know the patient, however, may omit these factors from the report and thus make an error in the expected date. Even so, sufficient margin for error is allowed if the patient stops work eight weeks before the expected date.

Six weeks after the baby's birth the normal mother is considered to have recovered from childbirth, but it is only then that she begins to have "something extra" to give her baby. One medical authority suggests that mothers stay home for six months with their babies, and nurse them if possible. It is interesting to note here that breast feeding, although there are no figures on the subject, seems to be less prevalent than in the past. Doctors still consider it desirable, but since there are now excellent substitutes, it is no longer thought to be essential for the baby's health. As was noted in an earlier part of this report, none of the 194 reporting units in the Women's Bureau Survey allow time for breast feeding during the working day.

One doctor who has long acquaintance with the difficulties of the working mother thinks that the Canadian family needs more protection. High-pressure advertising and installment buying push young couples into debt. In order to help with the payments, the young wife continues to work after marriage, sometimes postponing her first pregnancy. If she becomes pregnant, she continues to work and may even work for four or five months of a second pregnancy. But now that she has a family, the needs of the existing child come first, and the family must live on the income of the husband alone. Is there not some way that young families like this can be protected from taking on heavy debts?

The welfare of the next generation of Canadians is at stake here. More research is needed on the welfare of the mother and child. Are these young families being left to fend for themselves when they should have access to such services as counselling on family budgets and financial assistance at reasonable rates of interest?

Summary

The welfare of the mother and child is central, but each of the doctors interviewed saw the problems from a slightly different standpoint.

Ten to 15 per cent of women may need long prenatal leave, while others, without endangering their health or that of the infant, may work until the end of the sixth or the seventh month of pregnancy. A long postnatal leave is desirable, but not always possible. More research is needed in the medical field and more serious consideration of ways of assisting young families.

SUMMARY AND CONCLUSIONS

Certain concluding statements may be made about provisions for maternity protection in Canada.

1. Maternity leave. Maternity leave, with prohibition against dismissal, is required by the legislation of two provinces, British Columbia and New Brunswick. Under the Alberta Labour Act employment may be prohibited during a three and a half month period, but no regulations having been issued, the legislation is inoperative. Provision is made for maternity leave in the Regulations under the Civil Service Act of the Government of Canada, and under the Civil Service Act or the Public Service Acts of five provinces, and by collective agreement in one province. In the Civil Service of three provinces, policy on maternity leave, while not incorporated in legislation, is formulated in personnel policies. In the private sector, 62 per cent of the reporting units in the survey made in connection with this study granted maternity leave, 15 per cent of them by collective agreement, and 47 per cent by management decision. Most of these reporting units granted leave to their female employees for six weeks or more before the probable date of the birth of the child and for six weeks or more after the birth of the child. Maternity leave is guaranteed by collective agreement to a small proportion of the female labour force in Canada.

2. Maternity benefits. No provision for cash maternity benefits was found in the public sector. Female employees in four reporting units of the survey received the same income as their normal wages during leave, while female employees in twenty reporting units received less than their normal wages. A few collective agreements stipulated payment of benefits for six weeks. Only occasionally were these benefits equal to normal wages.

Because of various forms of group medical insurance, and because of provincial medical and hospital insurance, medical coverage for maternity is more common in Canada than are cash maternity benefits. Despite the advantages of group insurance, women who take maternity leave must often pay the employer's share of the premiums as well as their own during the period of leave.

3. Protection of employment (seniority and reinstatement). Seniority of civil servants, where it was mentioned in the Regulations, did not accumulate during leave, but previously earned seniority was retained by employees who returned to work within a stated period. In about 60 per cent of the reporting units in the survey which granted maternity leave, seniority accumulated for the full period of leave. Collective agreements, when they had a maternity leave clause, were often specific about both seniority and reinstatement at the same rate of pay as before. On the other hand, reinstatement at the same level of employment was not always guaranteed to women taking maternity leave. One employer simply protected service and seniority, without giving assurance of re-employment.
4. Facilities for nursing mothers and infants. Since provisions for nursing mothers and infants were not made in any of the reporting units in the survey, it seems probable that Canadian employers as a whole do not make such provisions.
5. Protection of the health of women workers during maternity. The legislation of two provinces contains clauses designed to protect the health of pregnant women workers, but no regulations had been issued. The replies to the questionnaire showed that special arrangements for the welfare of pregnant women and nursing mothers, with reference to evening work, night work and overtime work were not made in most cases, although doubtless informal arrangements were made. Collective agreements did not usually set forth provisions for the welfare of pregnant women and nursing mothers, apart from the requirement that a doctor's certificate state that a woman was able to work beyond a certain date or return to work before a certain date.

The "transition" referred to at the outset appears to have begun. As a result, the scene is full of changing shapes and patterns. We are not sure what to think about working mothers, for one hears conflicting ideas on all sides:

"A woman's place is in the home."

"One is penalized for having a child."

"Employers need women to work for them, but they're not going to make it easy for them to work."

"Other employees object if the married women have more advantages."

As for the "complete transformation...of the mental categories applied to women", to quote again from Dr. Guy Rocher, perhaps we can make a start. Perhaps we can think less about "working mothers", with the old connotation of fearful neglect, latch keys and cold suppers. Perhaps we can think more about "employed women with family responsibilities", with the new connotation of a brave effort to combine two jobs in a new way. This latter attitude could be the starting point for further much needed medical research into the problems involved, and for the development of social policies and amenities relevant to the needs of a changed and changing society.

APPENDICES

I

It is instructive to note the Draft Declaration on the Elimination of Discrimination Against Women. Teheran, 1965, and Geneva, 1966. Even though the draft, prepared by the United Nations Commission on the Status of Women in its 19th Session, is subject to change, in itself it is an important document.³⁴ Article 6(c) says that parents "shall have equal rights and duties in matters relating to their children. In all cases the interest of the children shall be paramount." Article 10(2) has particular relevance to this study:

"In order to prevent discrimination against women on account of maternity and to ensure their effective right to work, measures shall be taken to provide paid maternity leave, with guarantee of returning to former employment, and to provide the necessary social services, including childcare facilities."

II

The International Confederation of Free Trade Unions set standards for maternity protection and the employment of women with family responsibilities in The Rights of Working Women, a charter adopted by its Eighth World Congress held in Amsterdam in July 1965:³⁵

"Maternity protection ought to be considered a duty of society. The aim of maternity protection is to safeguard the health and welfare of mother and child and prevent women workers from being economically penalized because they give birth to children. It should not be a cause of discrimination in any field.

"The minimum standards of maternity protection laid down in I.L.O. Convention No. 103 and Recommendation

No. 95 should be implemented. Appropriate steps should be taken to see that legislation or collective agreements guarantee that these standards are applied to all working women, including those gainfully employed in industrial home-work, part-time work, in agriculture and in domestic service.

"The working woman who has given birth to a child should be granted sufficient compensation for loss of earnings during the compulsory leave period, which should be at least twelve weeks. She should be allowed to prolong the maternity leave period for up to one year and the rights linked to her employment should not be lost, particularly as far as employment security, promotion rights and social benefits such as health, insurance, pensions and other rights are concerned.

"Women should not be employed in any work which might endanger their maternal functions. Studies should be made of the dangers which new substances and new techniques might present.

"Every effort should be made to create the conditions which will enable women with family responsibilities to make an effective choice as to whether they go out to work or remain at home.

"All steps should be taken to publicise the problems arising from the conflicting duties of women workers with family responsibilities, and every effort made to solve these problems. Women workers with family responsibilities would be assisted by certain general improvements applicable to all workers such as the reduction of working hours and the establishment of the five-day week.

"Their special needs should also be met by setting up crèches, child care services, home help services and other facilities, which should, as far as possible, come under the responsibility and control of the public authorities."

III

There are signs that the teaching profession, which has many women workers, growing numbers of them married, has also given attention to the need for maternity protection:

i - The Diplomatic Conference on the Status of Teachers, a meeting of experts on the teaching profession held in Geneva in 1965 under the auspices of the ILO and the UNESCO, published a Draft Recommendation Concerning the Status of Teachers³⁶ which expresses the concern that teachers enjoy a status commensurate with their essential role in educational advancement. In this document regarding teaching in all its aspects, maternity protection has its place:

"54. Employers should be prohibited from terminating contracts of service for reasons of pregnancy and maternity leave."

"55. Special arrangements such as crèches or nurseries should be made to take care of the children of teachers with family responsibilities while the mother is at work."

"119. Effect should be given to I.L.O. standards in the field of maternity protection, and in particular the Maternity Protection Convention, 1919, the Maternity Protection Convention (Revised), 1952, and any further revisions of these Conventions,..."

"120. Women teachers with children should be encouraged to remain in the service by such measures as unpaid maternity leave of up to one year after childbirth without loss of employment, all rights resulting from employment being fully safeguarded."

ii - The Canadian Education Association, reporting in 1963 on the policies of Canadian school boards with respect to maternity leave,³⁷ stated that 28 out of 67, or 41.79 per cent of the major school boards had policies respecting maternity leave. Length of leave varied from 30 days to three years, the majority being at least one year. One school board paid 20 days' salary during maternity leave as part of its regular sick leave policy, and three boards paid a maximum of 30 days' salary in the same way, or whatever sick leave the teacher had accumulated. One board reported that leave was granted for 30 days and salary paid.

The teachers were entitled to no sick leave benefits, except for the 20-30 days' salary already mentioned. By far the majority of boards gave no increments to teachers on maternity leave, although one board gave regular increments for a period not

exceeding two years; one gave an increment to teachers who had completed the major portion of a school year, another if a teacher had been employed for eight months of a school year. One board gave no increment if a teacher was absent a full year, and still another stated that a teacher who had been absent for 100 working days could not benefit from the annual increment.

iii - In one collective agreement between a school board and its teachers in a Canadian city, the maternity leave clause granted to married women teachers leave which must begin 'not less than four months before the period of confinement' and continue for at least one full year. 'Thirty days' notice was required, and the teacher on leave was required to notify the Superintendent by May 15 of her intention to return to her duties in September. No pay or sickness allowances were granted, and the board had no obligation to take a teacher back on staff except at the beginning of September. Maternity leave was subject to general regulations affecting increments for teachers on leave of absence, and teachers returning from maternity leave might have to pass a medical examination before returning to work.

iv - In the contract signed in 1966 by the S.P.E.Q. (Teachers of the Province of Quebec) provision is made for maternity leave beginning at the eighth month of pregnancy and lasting for the following year, if desired.³⁸

IV

Survey of Maternity Leave - April 1966

Women's Bureau

Canada Department of Labour

(Questionnaire used in the Survey)

		Non-Office	Office
		Check (x)	
1. Do you grant maternity leave to female employees?	yes	—	—
	no	—	—

IF YES, PLEASE ANSWER ALL THE FOLLOWING QUESTIONS.
IF NO, PLEASE PROCEED TO QUESTION 5.

2. Is this policy written into a collective agreement, or is it the result of a unilateral management decision?	collective agreement	—	—
	management decision	—	—
		Enter Number of Weeks	
3. For how long before probable date of birth is leave given?	no time	—	—
	time up to 6 weeks	—	—
	6 weeks or more	—	—
4. For how long after the birth is leave given?	no time	—	—
	time up to 6 weeks	—	—
	6 weeks or more	—	—

WHETHER OR NOT THE QUESTION OF MATERNITY LEAVE IS COMPANY POLICY,
PLEASE ANSWER THE FOLLOWING QUESTIONS.

		Non-Office	Office
		Check (x)	
5. Does the employee receive any income from employer during absence for maternity?	yes	—	—
	no	—	—
6. If your answer to item 5 is yes, is the income received by the employee the same as her normal wages or less than her normal wages?	same	—	—
	less	—	—
7. If group insurance provides income during employee's absence on maternity leave, does the company share in the payment of premiums?	no	—	—
	yes	—	—
	less than 50%	—	—
	50% or more	—	—
8. Does the employee returning to work after childbirth commence payment of premiums to employee benefit plans as a new employee, or does she have the option of paying the full amount of back premiums, or does the company pay its share of back premiums?	as new employee	—	—
	pays full amount of back premiums	—	—
	company pays its share of back premiums	—	—

		Enter Number of Weeks	
9. If you grant maternity leave, does the employee's seniority accumulate?	for full period of her leave	—	—
	for part of the period is frozen	—	—
		Non-Office Office Check (x)	
10. If you do not grant maternity leave, do you recognize past seniority if the worker is re-employed?	yes	—	—
	no	—	—
11. On her return to employment, is the mother given paid time, during the working day, to nurse her baby?	yes	—	—
	no	—	—
12. Do you make special arrangements for the welfare of pregnant women or nursing mothers in your employ, so that they are not required to work evenings or nights?	yes	—	—
	no	—	—
13. Do you make special arrangements for the welfare of pregnant women or nursing mothers in your employ, so that they are not required to work overtime?	yes	—	—
	no	—	—
14. How much difficulty would or does maternity leave create for efficient management?	much difficulty	—	—
	little difficulty	—	—
	no difficulty	—	—
15. What problems arise in the job situation from provision of maternity leave?	Please describe briefly below.		

Date

Signature

Official Title

REFERENCES

- ¹ International Social Science Journal, Vol. XIV, No. 1, 1962, p. 137.
- ² Canada Department of Labour. Women's Bureau. Facts and Figures About Women in the Labour Force. Ottawa, 1965. Table 1.
- ³ Same, Table 8.
- ⁴ Canada Department of Labour. Women's Bureau. Women at Work in Canada. Ottawa, 1964., p. 22.
- ⁵ International Labour Office. Maternity Protection. A World Survey of National Law and Practice. Geneva, 1965.
- ⁶ Same, paragraph 274.
- ⁷ International Labour Conference, Geneva, 1965. Recommendation concerning the Employment of Women with Family Responsibilities II 2 (c). (See Women's Bureau Bulletin No. XV, July 1965, Canada Department of Labour.)
- ⁸ Same, IV 10 (1).
- ⁹ 1955 Revised Statutes of Alberta, Ch. 677, Sec. 33 (2) (c).
- ¹⁰ 1960 Revised Statutes of British Columbia, Ch. 235.
- ¹¹ Statutes of British Columbia, 1966, Ch. 25. Maternity Protection Act, 1966.
- ¹² 1964 Statutes of New Brunswick, Ch. 8, Sec. 12 and 13.
- ¹³ 1964 Ontario Statutes. Industrial Safety Act, 26 (19).
- ¹⁴ Civil Service Act - Civil Service Regulations, Section 66 - Statutory Orders and Regulations, 1962.
- ¹⁵ The Manitoba Gazette, Vol. 91 No. 10, Manitoba Regulations 19/62, being a Regulation made under Section 46 of "Civil Service Act" respecting conditions of employment of civil servants (filed February 28th, 1962). Clause 69.

- 16 Regulations under "Civil Service Act", Statutes of Nova Scotia, 1962, Ch. 3, made on January 15, 1963, Sections 4, 5 and 51.
- 17 Regulations made under "The Public Service Act", 1961-62 O. Reg. 190/62 General 9(2)(b)), and a further Regulation (O. Reg. 323/63 General 9a. -(1)-(3).
- 18 Regulations made under "The Civil Service Act" by the Civil Service Commission under authority of Section 8(1) of the Civil Service Act (11 Elizabeth II, Chapter 5, as amended by 13 Elizabeth II, Chapter 4), Part VIII, 3(b).
- 19 Collective Agreement between the Government of the Province of Quebec and le Syndicat des fonctionnaires provinciaux du Québec, Article 34, Québec/Travail, Vol. 2. No. 4, avril 1966.
- 20 Quebec Official Gazette, October 22, 1966, Vol. 98, No. 42, Order in Council, Number 1659, Sec. 7.
- 21 Civil Service Act, Statutes of Quebec 1965, Chapter 14, Division XV.
- 22 Order in Council 542/60 under "Public Service Act", 12.5 (b) and (d).
- 23 See Appendix.
- 24 Canada Department of Labour. Labour Gazette, Vol. LXVI, No. 1, Jan.-Feb. 1966, p. 31.
- 25 Canada Department of Labour, Economics and Research Branch. Working Conditions in Canadian Industry, Report No. 6, 1962.
- 26 Canada. Unemployment Insurance Commission. Digest of Benefit Entitlement and Principles. Ottawa, 1965. 1-200 (2).
- 27 Same, 1-1769 (8).
- 28 Same, 1-280 5 (a).
- 29 Same, 1-283 2.
- 30 Same, 1-283 1 (b).
- 31 Canada Department of Labour. Labour Gazette, Vol. LXVI, No. 3. April, 1966, p. 179-182.

- 32 Hougham, George. The Relationship between Unemployment Insurance and Canada's other Income Maintenance Programs; prepared for the Federal Committee of Enquiry into the Unemployment Insurance Act. The Canadian Welfare Council, Ottawa, 1962, pp. 25-26.
- 33 International Labour Office. Women Workers in a Changing World; Report VI (1) of the Forty-eighth Session of the International Labour Conference. Geneva, 1963, p. 50.
- 34 Canada Department of Labour, Women's Bureau Bulletin No. XVIII, June 1966. United Nations Action towards Elimination of Discrimination Against Women.
- 35 International Confederation of Free Trade Unions, 37-41 rue Montagne aux Herbes Potagères, Brussels 1, Belgium. The rights of working women, Charter adopted by the ICFTU, Eighth World Congress Amsterdam, 7-15 July, 1965.
- 36 ILO-UNESCO. Text of the Draft Recommendation Concerning the Status of Teachers, Geneva-Paris, 1965, VII.
- 37 Canadian Education Association, Research and Information Division, Information Bulletin, The Policies of Canadian School Boards with respect to Accumulative Sick Leave for Teachers, Maternity Leave, Sabbatical Leave, Leave of Absence for Study, Report No. 12/1962-63.
- 38 Le travail Organe officiel de la Confédération des Syndicats Nationaux (CNS). Vol. 42, No. 4, mai-juin, 1966. p. 12.

AU.16.11.67

~~Government~~

~~HD Publications~~

6099

W66

~~cop. 4~~

Canada Women's Bureau

Woodsworth, Sheila

[G-4] Maternity protection

for women workers in Canada

~~Nursing~~

PLEASE DO NOT REMOVE
CARDS OR SLIPS FROM THIS POCKET

UNIVERSITY OF TORONTO LIBRARY

67-560-CL

